Limetree Bay Terminals, LLC COE Permit Application

Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities regulated under this program include fill for development, water resource projects (such as dams and levees), and infrastructure development projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the specific activity is exempt from Section 404 regulation. The basic premise of the program is that no discharge of dredged or fill material may be permitted if a practicable alternative exists that is less damaging to the aquatic environment or if the nation's waters would be significantly degraded by the proposed action. Section 10 of the Rivers and Harbors Act regulates the construction or alteration of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States.

EPA develops and interprets policy, guidance, and environmental criteria used in evaluating Corps of Engineers permit applications under Section 404 of the CWA, reviews and comments on the individual permit applications, and retains the authority to prohibit, deny, or restrict the use of specific areas. EPA may also elevate specific cases under Section 404(q) if we believe that the proposed action will result in significant degradation to waters of the U.S.

Current Status: On November 8, the Corps of Engineers published a public notice on Permit Application No. SAJ-2017-00416 (SP-JCM) and established a 30-day comment period from the issuance of the public notice. The applicant, Mr. Forgan McIntosh, on behalf of Limetree Bay Terminals, LLC proposes to install a Single Point Mooring (SPM) and an underwater pipeline system for the direct offshore transfer of bulk fuel from very large bulk carriers to the existing Facilities at Limetree Bay Marine Terminal without the need to transfer fuel to smaller vessels. The work would require the placement of two concrete coated, 30-inch diameter pipelines from the end of the eastern jetty of Limetree Bay Terminal to a Pipeline End Manifold (PLEM) located offshore (at approximately 150 feet below mean sea level). From there, the system would transition to three 24-inch hoses suspended in mid-water at depths ranging from 150 to 250 feet. Sections of the two 30-inch pipelines would need to be buried under the marine floor. This would require the excavation of a 300 feet long, 62 feet wide and 20-foot-deep trench. To construct the trench, the existing concrete tetrapod revetment of the jetty would need to be temporarily removed in order to excavate approximately 14,000 cubic yards of material. The second section of the pipelines (888 feet long) would be laid on the ocean floor, while the third section would require the excavation of another trench (1,625 feet long by 62 feet wide by 16 feet deep) across the existing navigation channel. The excavated material in this area would be side casted and used to bury the pipeline once it is completed. Concrete mats would be placed over the pipelines at critical areas. Installation of the PLEM would require the placement of four 18-inch diameter by 60-feet long piles. The 24-inch hoses would be held in position by anchors requiring the placement of 60-inch diameter by 80-foot-long anchor piles.

Issues:

- The project impact corridor occupies an area of approximately 4.33 acres of marine bottom, of which 1.65 acres consists of hard bottom supporting essential features for colonization by coral species listed as endangered under the Endangered Species Act (*Acropora palmata, Orbicella annularis, Orbicella faveolata, orbicella franksi* and *Dendrogyra cylindrus*). The last major dredging within the area occurred in 1974. The terminal's reveted jetties are colonized by coral and sponge species, including ESA and non-ESA listed species. The applicant has proposed the

relocation of all coral colonies located within 50-feet of the centerline of the trenched sections of the pipeline corridor. In the case of surface-laid sections of the pipeline, the applicant proposes to relocate all coral colonies located within 20 feet of the centerline. Based on this proposal, it is estimated that 2,215 coral colonies would need to be relocated.

- Dredging the hardbottom and pavement areas involve removal of hard limestone and possibly bedrock substrate. The PN describes the intent to use an excavator for dredging. Would this approach be sufficient to penetrate all hardbottom substrates? Alternatives, including the use of explosives, should be examined, and their possible environmental impacts considered in detail.

- Translocating coral colonies must go beyond consideration of the individual colonies and should include consideration of ecosystem services associated with the translocated corals (e.g., invertebrates, algae, fish substrate/refuge and connectivity, including spawning and/or aggregation areas). A habitat equivalency analysis of the proposed area of potential impact and the proposed restoration area should be performed.

- A coral transplantation plan (CTP) should be developed to provide details on selection of corals to be transplanted and not transplanted, performance survival standards (including acceptable survival percent) protection and mitigation plans if coral survival doesn't meet the standards.

- An assessment of indirect impacts to corals (e.g., jeopardy of coral reefs outside the immediate construction footprint by future petroleum transfer process) should be completed. There is a valuable coral reef ecosystem along the shelf and shelf edge and significant mutton snapper spawning aggregation east (down prevailing current) of the proposed PLEM.

- The Pipeline and Hazardous Material Safety Administration should review this project, given that it involves trenching and construction for sensitive fuel lines.

- Additional, detailed information on measures to protect water quality within the project site should be furnished by the applicant. While the use of turbidity barriers, the sidecasting of dredged material near uncolonized seafloor to control the suspension of sediments, and a water quality monitoring plan are mentioned within the PN, detailed information is required to determine the adequacy of these measures.

PSD issues: On November 9, 2017, representatives from Limetree Bay Terminals, LLC met with the Office of Air and Radiation (OAR) to discuss their proposal to restart parts of the old HOVENSA operations and to construct 2 new projects. Subsequent to that meeting, the Office of Air Quality Planning and Standards (OAQPS) scheduled a briefing for the Assistant Administrator for Air. OECA is also involved in this project because Limetree seeks a modification to their Consent by mid-December in order to proceed with the single-point mooring (SPM) project, a refinery restart project, and a renewable biodiesel production project. However, the team working on the PSD permit and the consent decree at Region 2 were unaware that the Corps' PN had been published. In addition, it must be noted that the Limetree Bay projects were included in a letter from the Governor of the USVI to the President, requesting an expedited permit process.

Current status and future actions: CWD's Wetlands Protection Section, CEPD's Wetlands program staff and CASD's Environmental Review Section believe that additional information beyond what is available within the Corp's PN is required in order to determine the extent of environmental impacts that may result from the construction of the SPM at Limetree Bay. A 15-day extension to the PN's comment period was requested in order to complete the evaluation of available data. The extension was granted by the Corps. EPA's analysis concluded and a letter containing substantive comments on the project has been drafted, and is expected to begin concurrences shortly. The new deadline for the Corps of Engineers is December 29, 2017.

Date: December 14, 2017
Contact: Jose Soto, CEPD